

PATENT APPLICATION

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of

Docket No: Q60535

Michal KAHAN, et al.

Appln. No.: 09/832,828

Group Art Unit: 2179

Confirmation No.: 1955

Examiner: Sara M. HANNE

Filed: April 12, 2001

For: **METHOD AND APPARATUS FOR INFORMATION AGGREGATION AND
PERSONALIZED DISPLAY OF THE AGGREGATED INFORMATION**

SUPPLEMENTAL APPEAL BRIEF UNDER 37 C.F.R. § 41.37

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 41.37, Appellant submits the following:

Table of Contents

I.	REAL PARTY IN INTEREST	2
II.	RELATED APPEALS AND INTERFERENCES	3
III.	STATUS OF CLAIMS	4
IV.	STATUS OF AMENDMENTS	5
V.	SUMMARY OF THE CLAIMED SUBJECT MATTER	6
VI.	GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL	11
VII.	ARGUMENT	12
	CLAIMS APPENDIX	20
	EVIDENCE APPENDIX:	31
	RELATED PROCEEDINGS APPENDIX	32

I. REAL PARTY IN INTEREST

The real party in interest is COMVERSE NETWORK SYSTEMS, LTD., by virtue of an assignment recorded by the Assignments Branch of the U.S. Patent and Trademark Office on June 14, 2001, at Reel 011895, Frame 0180.

II. RELATED APPEALS AND INTERFERENCES

A Pre-Appeal Brief Request for Review was filed on July 25, 2008, with the Notice of Appeal, in response to the Advisory Action dated July 18, 2008. In response to the filing of the Notice of Appeal and Pre-Appeal Brief Request for Review, a Notice of Panel Decision from Pre-Appeal Brief Review was mailed on August 27, 2008. The Notice of Panel Decision from Pre-Appeal Brief Review indicated that the application remains under appeal because there is at least one actual issue for Appeal.

To the knowledge and belief of the Appellant, the Assignee, and the Appellant's legal representative, there are no other appeals or interferences before the Board of Appeals and Interferences that will directly affect or be affected by the Board's decision in the instant Appeal.

III. STATUS OF CLAIMS

Claims 1-4, 7, 8, 10, 11, 14-23, 26-31, 34-41 and 43-54 are all the claims pending in the application and stand finally rejected.

Claims 5-6, 9, 12, 13, 24, 25, 32, 33, 42 and 55-57 have been canceled.

Claims 1-4, 7, 8, 11, 14-17, 19-23, 26-29, 31, 34-41, 43-45 and 47-53 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kim, U.S. Patent 6,546,002 (hereinafter “Kim”), and further in view of McNamar et al., U.S. Patent 7,089,202 (hereinafter “McNamar”).

Claims 10, 18, 30, 46 and 54 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kim, and further in view of McNamar, and in further view of Gerace, U.S. Patent 5,848,396 (hereinafter “Gerace”).

No other ground of rejection or objection is currently pending.

A copy of the claims pending on appeal is set forth in the attached Appendix.

IV. STATUS OF AMENDMENTS

An Amendment After Final under 37 C.F.R. § 1.116 was filed on April 25, 2008, amending claims 14-18. This Amendment After Final was not entered by the Examiner, as stated in the Advisory Action dated May 22, 2008.

A subsequent Amendment After Final under 37 C.F.R. § 1.116 was filed on July 14, 2008, amending claims 14-18. This Amendment was entered by the Examiner, as stated in the Advisory Action dated July 18, 2008.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

Each of the claims is directed to a method and apparatus for integrating mobile data services and content sources, and aggregating information from those sources into a dynamic, personalized format for a mobile subscriber.

Independent Claim 1

Referring to the features of the exemplary embodiment, which is shown in Figures 3 and 4, a method is disclosed for aggregating content from a server 20 to push to a mobile terminal 10 of a subscriber. Specifically, a provisioning profile 44 associated with the subscriber is transmitted from the server 20 to at least one outside application executing on a data item computer 17-19. *Specification*, para. [0045], lines 1-8. The server 20 then receives data items 40-42 from the at least one outside application on the data item computer 17-19. *Id.*, para. [0046], lines 3-6. A portion of the received data items comprise personalized information to be pushed to the subscriber according to the subscriber's provisioning profile 44. *Id.* para. [0046], lines 6-9. At the server 20, the received data items 40-42 are then arranged for display according to a plurality of subscriber-selected presentation rules. *Id.*, para. [0046], lines 15-17; para. [0053], lines 7-9. Each data item 40-42 is associated with at least one presentation rule (*Id.*, para. [0044], lines 1-3), and each data item 40-42 is also associated with a generic action menu (Fig. 6), an application specific menu (Fig. 8), or both. *Id.*, para. [0053], lines 4-6; para. [0067], lines 1-12; para. [0070], lines 5-8. The application specific menu corresponds to the at least one outside application on the data item computer 17-19. *Id.*, para. [0057], lines 1-8. Finally, the

arranged data items are pushed from the server 20 to the mobile terminal 10 of the subscriber.

Id., para. [0046], lines 9-10 and 17-18.

Independent Claim 14

Claim 14 is directed to an executable program for a computer system, embodied on a computer readable medium, for aggregating content from a server 20 to push to a mobile terminal 10 of a subscriber to create a display of aggregated content on the mobile terminal 10. The exemplary embodiment of executable code for a computer system is described in para. [0009], lines 1-11, and para. [0029], lines 1-9, and in Figures 3 and 4.

Specifically, in a first executable code portion executed on a computer system, the server 20 then receives at least one data item 40-42 from the at least one content provider.

Specification, para. [0009], line 1-11; para. [0029], lines 1-9; para. [0046], lines 3-6. In a second executable code portion, at least one data item is selected from the at least one data item according to a provisioning profile associated with the terminal subscriber. *Id.*, para. [0009], line 1-11; para. [0029], lines 1-9; para. [0045], lines 1-8. In a third executable code portion, at the server 20, the received data items 40-42 are then formatted for display according to provisioning profile. *Id.*, para. [0009], line 1-11; para. [0029], lines 1-9; para. [0046], lines 15-17; para. [0053], lines 7-9.

Independent Claim 19

Claim 19 is directed to an apparatus for aggregating content from a server 20 to be pushed to a mobile terminal 10 of a subscriber, as shown in the exemplary embodiments of Figs. 3 and 4. Referring to the features of the exemplary embodiment, a data transmitter such as the mobile portal server 20 transmits a provisioning profile 44 associated with the subscriber to at least one outside application, wherein each outside application executes on a data item computer 17-19. *Specification*, para. [0010], lines 1-8; para. [0045], lines 1-8. A data receiver such as the mobile portal server 20 then receives the data from at least one outside application executing on the data item computer 17-19. *Id.*, para. [0010], lines 1-8; para. [0046], lines 3-6. A data discriminator selects the data items, wherein a portion of the received data items comprise personalized information to be pushed to the subscriber according to a provisioning profile associated with the subscriber. *Id.*, para. [0010], lines 1-8; para. [0046], lines 6-9 and 15-17; para. [0053], lines 7-9. A controller arranges the selected data items for display according to a plurality of subscriber-selected presentation rules, where each selected data item is associated with at least one presentation rule. *Id.*, para. [0010], lines 1-8; para. [0046], lines 15-17; para. [0053], lines 7-9. Each received data item is associated with a generic action menu (Fig. 6), an application specific menu (Fig. 8), or both. *Id.*, para. [0010], lines 1-8; para. [0053], lines 4-6; para. [0067], lines 1-12; para. [0070], lines 5-8.

Independent Claim 34

Claim 34 is directed to an apparatus for aggregating content from a server to be pushed to a mobile terminal of a subscriber, as shown in the exemplary embodiments of Figs 3 and 4. Referring to the features of the exemplary embodiment, a database server 26 stores a provisioning profile 44 of the subscriber, while a control server 21 transmits the provisioning profile 44 associated with the subscriber to at least one outside application. *Specification*, para. [0047], lines 2-3; para. [0050], lines 1-2. Each outside application executes on a data item computer 17-19. *Id.*, para. [0040], lines 3-5. The control server 21 receives data items from at least one application executing on a data item computer 17-19. *Id.*, para. [0047], lines 1-9. The control server 21 adapts the data items for display on a mobile terminal 10 according to a plurality of subscriber-selected presentation rules stored on the database server 26. *Id.*, para. [0051], lines 1-4; para. [0052], lines 8-16. The control server 21 then associates each data item with a generic action menu (Fig. 6), an application specific menu (Fig. 8), or both. *Id.*, para. [0054], lines 1-6; para. [0070], lines 5-8. A portion of the received data items comprise personalized information to be pushed to the subscriber according to the provisioning profile 44. *Id.*, para. [0046], lines 6-9 and 15-17. A web server 27 pushes the adapted data items to the mobile terminal 10. *Id.*, para. [0049], lines 1-3.

Independent Claim 47

Claim 47 is directed to a mobile portal server for aggregating content to be pushed to a mobile terminal of a subscriber. The exemplary embodiments, described in Figs. 3 and 4,

illustrate a subscriber database 25 that stores a provisioning profile 44 for the subscriber (Fig. 4).

An applications interface processor 23 transmits a provisioning profile 44 associated with the subscriber to at least one outside application. *Specification*, para. [0058], lines 1-3. Each outside application executes on a data item computer 17-19 (Fig. 3). The applications interface processor 23 receives data items from at least one outside application executing on a data item computer 17-19. *Id.*, para. [0056], lines 1-2 and 5-7. At least a portion of the received data items comprise personalized information to be pushed to the subscriber according to the provisioning profile 44 associated with the subscriber and transmitted to the at least one outside application. *Id.*, para. [0046], lines 6-9 and 15-17. The applications interface processor 23 then adapts the data items for transmission to a mobile terminal 10 according to a plurality of subscriber selected presentation rules stored on the subscriber database. *Id.*, para. [0050], lines 12-15. Each item is then associated with a generic action menu (Fig. 6), an application specific menu (Fig. 8) corresponding to the at least one outside application executing the data item from the computer, or both a generic action menu and application specific menu. *Id.*, para. [0054], lines 1-6; para. [0070], lines 5-8. A web server 27 provides access of the adapted items to the mobile terminal 10. *Id.*, para. [0049], lines 1-3. A control processor 22 controls the applications interface processor 23, the subscriber database 25 and the web server 27. *Id.*, para. [0052], lines 1-3.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

This appeal is directed to the rejections below. In particular, the grounds of rejection to be reviewed include:

1. Whether claims 1-4, 7, 8, 11, 14-17, 19-23, 26-29, 31, 34-41, 43-45 and 47-53 are unpatentable under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,546,002, to Kim, in view of U.S. Patent 7,089,202, to McNamar.
2. Whether claims 10, 18, 30, 46 and 54 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kim, and further in view of McNamar, and in further view of Gerace, U.S. Patent 5,848,396.

VII. ARGUMENT

1. **Rejection of claims 1-4, 7, 8, 11, 14-17, 19-23, 26-29, 31, 34-41, 43-45 and 47-53 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,546,002, to Kim (hereinafter “Kim”), in view of U.S. Patent 7,089,202, to McNamar (hereinafter “McNamar”).**

Claim 1

A. No Motivation to Combine Kim and McNamar

With respect to claim 1, the Applicant respectfully requests the Board reverse this rejection, as there is no motivation to combine the teachings of Kim with the teachings of McNamar and arrive at the invention of claim 1.

As admitted by the Examiner in the Office Action of January 25, 2008, “obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art.” *Final Office Action of January 25, 2008*, p. 8 (citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992)). The Examiner then reasons that “one of ordinary skill in the art would see the advantage of including the push technology of McNamar in a wide array of technologies.” *Id.*, p. 8.

The Applicant submits that Kim and McNamar are wholly unrelated in subject matter and technology, and one skilled in the art would not be motivated to combine the teachings of a mobile interface agent with a method for Internet banking to arrive at the claimed invention. As

the Supreme Court recently affirmed, “a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art.” *KSR Co. v. Teleflex*, 127 S. Ct. 1727, 1741 (2007). Further, the Examiner cites to no section in either McNamar or Kim that would suggest the desirability of the modification of push technology, only cursorily discussed in McNamar, with the mobile interface agent in Kim.

Kim, classified in class 370, subclass 351 of “Multiplex Communications—Pathfinding or Routing,” is directed to a system and method for using a mobile interface agent “that allows the user to access documents, files, programs, applications, URL bookmarks, IP addresses, telephone numbers, television channels, radio stations, and other menu items from any computer.” *Kim, Abstract*. McNamar, on the other hand, is classified in class 705, subclass 35, of “Data Processing: financial, business practice, management or cost/price determination—Finance.” McNamar is directed to a “Method and System for Internet Banking and Financial Services,” and specifically to a “method of providing a client with an integrated financial management account.” *McNamar, Title and Abstract*.

McNamar, in essence, is a business method patent related to providing a client with an integrated financial management account. McNamar is completely unrelated to the invention of Kim in classification and in subject matter. One skilled in the art would not consider a business method relating to financial management in conjunction with a mobile menu-interface agent, nor would one see the advantages of applying a business method to the interactions between a server and a mobile terminal, as described in claim 1.

For at least these reasons, the Applicant submits that there is no motivation to combine the teachings of Kim and McNamar to arrive at the claimed invention, and therefore submits that the rejection under 35 USC §103 is improper.

B. No Rationale for the Asserted Combination

Furthermore, the Applicant requests the Board reverse the rejection of claim 1, as the Examiner failed to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a) in combining Kim and McNamar, since there is no sufficient rationale for the asserted combination of references.

In maintaining the rejection of claim 1, the Examiner states that “one or ordinary skill in the art would see the advantage of including the push technology of McNamar in a wide array of technologies.” *Final Office Action of January 25, 2008*, p. 8. The Applicant submits that the mere statement that something is advantageous is conclusory, and does not satisfy the requirement that the Examiner provide an explicit analysis rather than conclusory statements.

To establish a *prima facie* case of obviousness, the Examiner must “identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does...” *KSR v. Teleflex*, 127 S.Ct. 1727, 1741; 82 USPQ2d 1385; 167 L.Ed.2d 705 (U.S. 2007). The Examiner’s “analysis should be made explicit” and “cannot be sustained by *mere conclusory statements*; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.* (emphasis added). In discussing “the apparent reason to combine the known elements in the fashion claimed,” the Examiner must provide a detailed explanation of “the effects of demands

known to the design community or present in the marketplace,” especially “the background knowledge possessed by a person having ordinary skill in the art.” *Id.* at 1740-1741.

The Applicant submits that the Examiner’s analysis and rationale for the combination of Kim and McNamar is merely conclusory, and is not supported by the requisite “explicit analysis,” “articulated reasoning” or detailed explanation as to why the claimed invention is obvious in view of Kim and McNamar. Therefore, the Applicant submits that the Examiner has failed to establish a *prima facie* case of obviousness as required to sustain a rejection under 35 USC §103.

C. Kim and McNamar do not Enable the Claimed Invention

Finally, the Applicant submits that the combination of Kim and McNamar does not enable the invention of claim 1, as McNamar is limited to only a cursory mention of the use of push technology in an Internet banking system, and fails to provide any teaching or suggestion of how the push technology works or whether it could be implemented on another type of network or system. One skilled in the art would not be able to combine the teachings of McNamar with the teachings of Kim to arrive at the claimed invention, as McNamar lacks any description of how the push technology disclosed may function for a mobile network. McNamar does not teach how push technology would be adapted to the mobile setting beyond the limitations of the Internet disclosed in McNamar.

For at least this reason, the Applicant respectfully requests that the Board reverse the rejection of claim 1, as the cited references to Kim and McNamar, taken alone or in combination,

fail to enable the use of push technology with a mobile application and a mobile terminal, as described in claim 1.

Claims 2-4, 7, 8, 11

The Applicant respectfully requests that the Board reverse the rejection of dependent claims 2-4, 7, 8, and 11 at least based on their dependency from claim 1.

Claim 14

The Applicant respectfully requests that the Board reverse the rejection of claim 14 for at least the same reasons stated above with regard to claim 1. The Applicant submits that claim 14, directed to an executable program for a computer system for aggregating content from a server to push to a mobile terminal of a subscriber to create a display of aggregated content on the mobile terminal, recites similar claim elements to those of claim 1, and is therefore allowable for at least the same reasons presented above.

Claims 15-17

The Applicant respectfully requests that the Board reverse the rejection of dependent claims 15-17 at least based on their dependency from claim 14.

Claim 19

The Applicant respectfully requests that the Board reverse the rejection of claim 19 for at least the same reasons stated above with regard to claim 1. The Applicant submits that claim 19, directed to an apparatus for aggregating content from a server to push to a mobile terminal of a subscriber to create a display of aggregated content on the mobile terminal, recites similar claim

elements to those of claim 1, and is therefore allowable for at least the same reasons presented above.

Claims 20-23, 26-29, 31

The Applicant respectfully requests that the Board reverse the rejection of dependent claims 20-23, 26-29 and 31 at least based on their dependency from claim 19.

Claim 34

The Applicant respectfully requests that the Board reverse the rejection of claim 34 for at least the same reasons stated above with regard to claim 1. The Applicant submits that claim 34, directed to an apparatus for aggregating content from a server to push to a mobile terminal of a subscriber to create a display of aggregated content on the mobile terminal, recites similar claim elements to those of claim 1, and is therefore allowable for at least the same reasons presented above.

Claims 35-41, 43-45

The Applicant respectfully requests that the Board reverse the rejection of dependent claims 35-41 and 43-45 at least based on their dependency from claim 34.

Claim 47

The Applicant respectfully requests that the Board reverse the rejection of claim 47 for at least the same reasons stated above with regard to claim 1. The Applicant submits that claim 47, directed to an apparatus for aggregating content from a server to push to a mobile terminal of a subscriber to create a display of aggregated content on the mobile terminal, recites similar claim

elements to those of claim 1, and is therefore allowable for at least the same reasons presented above.

Claims 48-53

The Applicant respectfully requests that the Board reverse the rejection of dependent claims 48-53, at least based on their dependency from claim 47.

2. Rejection of claims 10, 18, 30, 46 and 54 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kim, and further in view of McNamar, and in further view of Gerace, U.S. Patent 5,848,396.

The Applicant submits that claims 10, 18, 30, 46 and 54 are allowable at least based on their dependency to their respective independent claims, as set forth in Section 1., above.

3. Conclusion

The USPTO is directed and authorized to charge the statutory fee (37 C.F.R. §41.37(a) and 1.17(c)) and all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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APPEAL BRIEF UNDER 37 C.F.R. §41.37
U.S. Appln. No. 09/832,828

Attorney Docket No. Q60535

Date: January 29, 2008

CLAIMS APPENDIX

CLAIMS 1-4, 7, 8, 10, 11, 14-23, 26-31, 34-41 and 43-54 ON APPEAL:

1. A method for aggregating content from a server to push to a mobile terminal of a subscriber, wherein the method comprises:

transmitting from the server, a provisioning profile associated with the subscriber to at least one outside application, wherein each outside application executes on a data item computer;

receiving at the server, data items from at least one outside application executing on a data item computer, wherein at least a portion of the received data items comprise personalized information to be pushed to the subscriber according to the provisioning profile associated with the subscriber;

arranging at the server, the received data items for display according to a plurality of subscriber-selected presentation rules, wherein each received data item is associated with at least one presentation rule, and wherein each received data item is associated with a generic action menu, an application specific menu corresponding to the at least one outside application executing on the data item computer, or with both the generic action menu and the application specific menu; and

pushing from the server, the arranged data items to the mobile terminal of the subscriber.

2. The method as claimed in claim 1, wherein the method further comprises updating the provisioning profile of the subscriber based upon at least one command received from the mobile

terminal.

3. The method as claimed in claim 2, wherein the at least one command updates the provisioning profile.

4. The method as claimed in claim 2, wherein the updated provisioning profile is stored in a subscriber database.

7. The method as claimed in claim 1, wherein receiving data items comprises storing the received data items in a subscriber database.

8. The method as claimed in claim 1, wherein receiving data items further comprises translating the received data items to comply with an application interface contract if the received data items do not comply with the application interface contract.

10. The method as claimed in claim 1, wherein the arranging of data items further comprises generating a subscriber home page according to presentation rules associated with the data items.

11. The method as claimed in claim 1, wherein the data items are transmitted using a data communications protocol to the mobile terminal.

14. An executable program for a computer system, embodied on a computer readable medium, for aggregating content from a server to push to a mobile terminal of a subscriber to create a display of aggregated content on the mobile terminal, the executable program comprising:

 a first executable code portion which, when executed on a computer system, transmits from the server, a provisioning profile associated with the subscriber to at least one outside application, wherein each outside application executes on a data item computer;

 a second executable code portion which, when executed on a computer system, receives at the server, data items from at least one outside application executing on a data item computer, wherein at least a portion of the received data items comprise personalized information to be pushed to the subscriber according to the provisioning profile associated with the subscriber;

 a third executable code portion which, when executed on a computer system, arranges at the server, the received data items for display according to a plurality of subscriber selected presentation rules, wherein each received data item is associated with at least one presentation rule, and wherein each received data item is associated with a generic action menu, an application specific menu corresponding to the at least one outside application executing on the data item computer, or with both the generic action menu and the application specific menu; and

 a fourth executable code portion which, when executed on a computer system, pushes from the server, the arranged data items to the mobile terminal of the subscriber.

15. The executable program embodied on a computer readable medium as claimed in claim 14, the executable program further comprising an executable code portion which, when executed on a computer system, updates the provisioning profile based upon at least one command received from the mobile terminal.

16. The executable program embodied on a computer readable medium as claimed in claim 14, the executable program further comprising an executable code portion which, when executed on a computer system, updates a presentation rule associated with a data item based upon at least one command received from the mobile terminal.

17. The executable program embodied on a computer readable medium as claimed in claim 14, the executable program further comprising an executable code portion which, when executed on a computer system, translates the received data items so as to comply with the application interface contract if the received data items do not comply with the application interface contract.

18. The executable program embodied on a computer readable medium as claimed in claim 14, the executable program further comprising an executable code portion which, when executed on a computer system, generates a subscriber home page according to presentation rules associated with the data items.

19. An apparatus for aggregating content from a server to be pushed to a mobile terminal of a subscriber, the apparatus comprising:

a data transmitter that transmits a provisioning profile associated with the subscriber to at least one outside application, wherein each outside application executes on a data item computer;

a data receiver that receives data items from at least one outside application executing on a data item computer;

a data discriminator that selects data items, wherein at least a portion of the received data items comprise personalized information to be pushed to the subscriber according to a provisioning profile associated with the subscriber; and

a controller that arranges the selected data items for display according to a plurality of subscriber selected presentation rules, wherein each selected data item is associated with at least one presentation rule, and wherein each received data item is associated with a generic action menu, an application specific menu corresponding to the at least one outside application executing on the data item computer, or with both the generic action menu and the application specific menu.

20. The apparatus as claimed in claim 19, the apparatus further comprising a receiver that receives at least one command from a mobile terminal to update the provisioning profile.

21. The apparatus as claimed in claim 19, the apparatus further comprising a wireless gateway connected to the receiver, wherein the wireless gateway receives the at least command

from the mobile terminal.

22. The apparatus as claimed in claim 20, wherein the receiver transmits the at least one command to the controller, and the controller updates the provisioning profile according to the at least one command.

23. The apparatus as claimed in claim 22, wherein the controller stores the updated provisioning profile in a subscriber database.

26. The apparatus as claimed in claim 19, wherein the data discriminator stores the received data items in a subscriber database.

27. The apparatus as claimed in claim 19, wherein the data discriminator translates received data items so as to comply with an application interface contract if the received data items do not comply with the application interface contract.

28. The apparatus as claimed in claim 27, wherein an application adapter translates the received data items to comply with the application interface contract.

29. The apparatus as claimed in claim 19, wherein the controller associates a presentation rule with the data items according to the provisioning profile.

30. The apparatus as claimed in claim 29, wherein the controller generates a subscriber home page according to presentation rules associated with the data items.

31. The apparatus as claimed in claim 21, wherein the wireless gateway transmits the data items to the mobile terminal.

34. An apparatus for aggregating content from a server to be pushed to a mobile terminal of a subscriber, the apparatus comprising:

a database server that stores a provisioning profile for the subscriber;
a control server that transmits a provisioning profile associated with the subscriber to at least one outside application, wherein each outside application executes on a data item computer, receives data items from at least one application executing on a data item computer and the control server adapts the data items for display on a mobile terminal according to a plurality of subscriber selected presentation rules stored on the database server and associates each data item with a generic action menu, an application specific menu corresponding to the at least one outside application executing on the data item computer, or with both the generic action menu and the application specific menu, wherein at least a portion of the received data items comprise personalized information to be pushed to the subscriber according to the provisioning profile associated with the subscriber; and
a web server that pushes the adapted data items to the mobile terminal.

35. The apparatus as claimed in claim 34, further comprising an operator platform for accessing a provisioning profiler.

36. The apparatus as claimed in claim 34, further comprising a wireless gateway connected to the web server.

37. The apparatus as claimed in claim 36, wherein the wireless gateway receives at least one command from the mobile terminal.

38. The apparatus as claimed in claim 37, wherein the wireless gateway transmits the at least one command to the control server, and the control server updates the provisioning profile according to the at least one command.

39. The apparatus as claimed in claim 38, wherein the control server stores the updated provisioning profile in a subscriber database.

40. The apparatus as claimed in claim 34, further comprising a short message service center connected to the control server.

41. The apparatus as claimed in claim 34, further comprising an interactive voice

response server connected to the control server.

43. The apparatus as claimed in claim 34, wherein the control server stores the received data items in a subscriber database.

44. The apparatus as claimed in claim 34, wherein the control server:
compares the received data items against an application interface contract;
determines if the received data items comply with the application interface contract; and
if the received data items do not comply with the application interface contract, translates
the received data items to comply with the application interface contract.

45. The apparatus as claimed in claim 44, wherein an application adapter translates the received data items to comply with the application interface contract.

46. The apparatus as claimed in claim 34, wherein the control server generates a subscriber home page and transmits the subscriber home page to the web server.

47. A mobile portal server for aggregating content to be pushed to a mobile terminal of a subscriber, the mobile portal server comprising:
a subscriber database that stores a provisioning profile for the subscriber;
an applications interface processor that transmits a provisioning profile associated with

the subscriber to at least one outside application, wherein each outside application executes on a data item computer, receives data items from at least one outside application executing on a data item computer, wherein at least a portion of the received data items comprise personalized information to be pushed to the subscriber according to the provisioning profile associated with the subscriber and transmitted to the at least one outside application, adapts the data items for transmission to a mobile terminal according to a plurality of subscriber selected presentation rules stored on the subscriber database and associates each data item with a generic action menu, an application specific menu corresponding to the at least one outside application executing on the data item computer, or with both the generic action menu and the application specific menu; a web server that provides access to the adapted data items to the mobile terminal; and a control processor connected to the applications interface processor, the subscriber database and the web server.

48. The mobile portal server as claimed in claim 47, further comprising an operator platform for accessing a provisioning profile.

49. The mobile portal server as claimed in claim 47, further comprising a wireless gateway connected to the mobile portal server.

50. The mobile portal server as claimed in claim 47, further comprising a short message service center connected to the mobile portal server.

51. The mobile portal server as claimed in claim 47, further comprising an interactive voice response server connected to the mobile portal server.

52. The mobile portal server as claimed in claim 47, wherein the applications interface processor:

compares the received data items against an application interface contract;
determines if the received data items comply with the application interface contract; and
if the received data items do not comply with the application interface contract, translates
the received data items to comply with the application interface contract.

53. The mobile portal server as claimed in claim 52, further comprising an application adapter that translates the received data items to comply with the application interface contract.

54. The mobile portal server as claimed in claim 47, wherein the control processor generates a subscriber home page and transmits the subscriber home page to the web server.

EVIDENCE APPENDIX:

None.

There are no documents or evidence that must be submitted pursuant to 37 C.F.R. § 41.37(c)(1)(ix) including evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132 or any other evidence entered by the Examiner and relied upon by Appellant in the appeal.

APPEAL BRIEF UNDER 37 C.F.R. §41.37
U.S. Appln. No. 09/832,828

Attorney Docket No. Q60535

RELATED PROCEEDINGS APPENDIX

Submitted herewith are copies of decisions rendered by a court or the Board in any proceeding identified in Section II pursuant to 37 C.F.R. § 41.37(c)(1)(ii).

Copy of Notice of Panel Decision from Pre-Appeal Brief Review dated August 27, 2008.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,828	04/12/2001	Michal Kahan	Q60535	1955
7590	08/27/2008		EXAMINER	
SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC 2100 PENNSYLVANIA AVENUE, N.W. WASHINGTON, DC 20037-3213				HANNE, SARA M
ART UNIT		PAPER NUMBER		
2179				
		MAIL DATE		DELIVERY MODE
		08/27/2008		PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Application Number 	Application/Control No.	Applicant(s)/Patent under Reexamination
	09/832,828	KAHAN ET AL.
	Sara Hanne	Art Unit 2179

Document Code - AP.PRE.DEC



This is in response to the Pre-Appeal Brief Request for Review filed 7/25/2008.

1. **Improper Request** – The Request is improper and a conference will not be held for the following reason(s):

- The Notice of Appeal has not been filed concurrent with the Pre-Appeal Brief Request.
- The request does not include reasons why a review is appropriate.
- A proposed amendment is included with the Pre-Appeal Brief request.
- Other: _____

The time period for filing a response continues to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received.

2. **Proceed to Board of Patent Appeals and Interferences** – A Pre-Appeal Brief conference has been held. The application remains under appeal because there is at least one actual issue for appeal. Applicant is required to submit an appeal brief in accordance with 37 CFR 41.37. The time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of this decision or the receipt date of the notice of appeal, as applicable.

The panel has determined the status of the claim(s) is as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-4, 7-8, 10-11, 14-23, 26-31, 34-41, 43-54.

Claim(s) withdrawn from consideration: _____.

3. **Allowable application** – A conference has been held. The rejection is withdrawn and a Notice of Allowance will be mailed. Prosecution on the merits remains closed. No further action is required by applicant at this time.

4. **Reopen Prosecution** – A conference has been held. The rejection is withdrawn and a new Office action will be mailed. No further action is required by applicant at this time.

All participants:

(1) KENNY S. LIN.

(3) Weilun Lo, SPE, AU 2179.

(2) Sara Hanne.

(4) _____.